

August 28, 2008

Christian Hilland
Senior Campaign Finance Analyst
Federal Election Commission
999 E St., NW
Washington, DC 20463

Dear Mr. Hilland:

This filing responds to your letter of July 29, 2008, requesting that we clarify the circumstances regarding the untimely disclosure of the electioneering communications in question.

Environmental Defense Action Fund is a nonpartisan environmental organization that is exempt from federal income tax under section 501(c)(4). As a matter of policy, the Action Fund does not support or oppose candidates for public office. The organization's activities are limited exclusively to advocating sound environmental policies on a strictly nonpartisan basis.

Our late filing of Forms 9 for the broadcasts referenced in your letter was the result of simple oversight. As we admitted immediately when this situation was brought to our attention by the New York Sun, "we just goofed." "Group Files Climate Change Ad Disclosures After Delay," New York Sun, June 18, 2008. (<http://www.nysun.com/national/after-delay-group-files-disclosures-on-change/80192/>). The ads which triggered Form 9 filing requirements were a small part of a larger grassroots lobbying effort in support of major legislation limiting greenhouse gases. The ads ran in roughly 23 media markets, but were electioneering communications in only three. In these three cases, we simply failed to take the primary elections into account. As is our practice, all of the ads received prior review by outside tax counsel for compliance with IRS rules. Unfortunately neither we nor outside counsel were thinking about the elections during this review. In essence, since this lobbying effort was conceived entirely without regard to the candidacy or election prospects of any of the officeholders named in the ads, no one checked on whether they would run close to a primary election and therefore would trigger filing of Forms 9.

Although the late filing was inadvertent, Environmental Defense Action Fund takes it very seriously. We consulted with experienced election law counsel immediately upon being informed of these disclosure requirements by the New York Sun reporter. We have since tightened our procedures for creating and vetting grassroots lobbying efforts that involve tv or radio advertising, in order to ensure that this kind of oversight does not recur in the future.

We appreciate this opportunity to address your concerns; please feel free to call me at (202) 572-3326 or email (cstackpole@edactionfund.org) if you have any questions or need any further information.

Sincerely,
Christine M. Stackpole